

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

POWERTRAIN, INC.,)
 a Mississippi Corporation,)
 Plaintiff)
)
v.)
)
JOYCE MA, an Individual, and)
BEST MACHINERY &)
ELECTRICAL, INC.,)
 a dissolved California Corporation)
)
 Defendants and Third Party Plaintiffs)
)
v.)
)
WILLIAM H. SHAWN, an Individual)
and SHAWNCOULSON, LLP,)
 a Washington, DC Limited Liability)
 Partnership)
)
Third Party Defendants)

Case No. 1:11-cv-00105-GHD-DAS

THIRD PARTY DEFENDANTS' MOTION FOR CONTINUANCE

COME NOW, Third Party Defendants William H. Shawn and ShawnCoulson, LLP (collectively "Third Party Defendants") and, by counsel, respectfully submit their Motion for Continuance. In support of their position, Third Party Defendants aver:

I.

The trial of this matter is set to begin on Monday, February 24, 2014 at the United States District Court in Aberdeen, Mississippi.

II.

Counsel for the Third Party Defendants filed a Motion to Dismiss (Doc. 57) on September 10, 2012. The Third Party Defendants waited over a year for the Court to rule on their Motion to Dismiss. The Court entered its Order Denying Third Party Defendants' Motion to Dismiss on September 24,

2013 (Doc. 111). Defendants-Third Party Plaintiffs filed their amended complaint on October 8, 2013 (Doc. 114). The Third Party Defendants did not learn of the denial of their motion or Defendants-Third Party Plaintiffs' filed amended complaint until the status conference held in this matter on December 16, 2013.

III.

Following their discovery of the Order denying their Motion to Dismiss filed over a year earlier, Defendants'-Third Party Plaintiffs' filed motion to dismiss, and this Court's order of December 16, 2013 providing for Third Party Defendants' joinder of Forth Party Defendants (Doc. 128), Third Party Defendants filed a Motion to Extend Time to File Fourth Party Complaint on January 7, 2014 (Doc. 130). The Third Party Defendants requested additional time, until January 20, 2014, to file their Fourth Party Complaint. The Court has not ruled on Third Party Defendants' Motion to Extend Time to File Fourth Party Complaint.

IV.

Third Party Defendants will be clearly prejudiced, if forced to trial without adequate time to develop their case, including, but not limited to, filing their Fourth Party Complaint and joining those Fourth Party Defendants. This request for a continuance of the trial is not made for the purpose of delay, but so that justice may be done, and Third Party Defendants be adequately represented at the trial. Third Party Defendants request the trial be continued for six (6) months so they are afforded the time properly to prepare for the trial.

V.

Furthermore, except for Third Party Defendants' pending Motion to Extend Time to File Fourth Party Complaint, Third Party Defendants have not requested a continuance of any deadline in this case. Accordingly, to be adequately prepared for trial, Third Party Defendants request the trial in this matter to be continued until all Fourth Party Defendants can be properly joined in this lawsuit, and any motions, discovery, or other related matters can be timely pursued and decided.

WHEREFORE, PREMISES CONSIDERED, Third Party Defendants respectfully request this Court to grant their Motion for Continuance' and that the Court amend the Case Management Plan and Scheduling Order, extending the trial date and deadlines in this matter at least six (6) months. Third Party Defendants also request such other relief as this Court may deem just and proper.

Respectfully submitted, this the 15th day of January, 2014.

s/William R. Wheeler, Jr.

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CERTIFICATE OF SERVICE

I hereby certify that on this the 15th day of January, 2014, I served a copy of the foregoing on all counsel of record via ecf.

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Partnership)

Third Party Defendants)

**ORDER GRANTING THIRD PARTY DEFENDANTS’
MOTION FOR CONTINUANCE**

Having considered the Third Party Defendants’ Motion for Continuance, the Court finds that Third Party Defendants’ motion has merit and grants the Motion to Continue the trial set to begin February 24, 2014.

THEREFORE, this the ____ day of January, 2014, it is hereby ORDERED that the Third Party Defendants’ Motion for Continuance is GRANTED and the trial of this matter set to begin February 24, 2014 is continued.

ORDERED AND ADJUDGED this the ____ day of January, 2013.

UNITED STATES DISTRICT JUDGE